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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

Outgoing
C0150032
#4295
R

April 3, 2013

CERTIFIED RETURN RECEIPT
7004 2510 0004 1824 6961

David Hibbs, Resident Agent
Genwal Resources Inc.
P. O. Box 910
East Carbon, Utah 84520-0910

Subject: Proposed Assessment for State Violation No. N 10105, Crandall Canyon Mine,
C/015/0032, Task ID #4295

Dear Mr. Hibbs:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty assessment for the above referenced violation. The violation was issued by Division Inspector, Steve Christensen, on March 18, 2013. Rule R645-401-600 et. seq. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this Notice of Violation has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R645-401-700, there are two informal appeal options available to you:

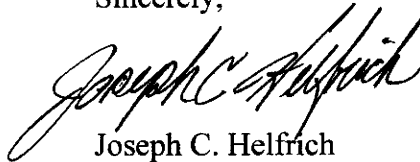
1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.



2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Suzanne Steab.

Sincerely,



Joseph C. Helfrich
Assessment Officer

JCH/ss

Enclosure

cc: OSM Compliance Report
Suzanne Steab, DOGM
Sheri Sasaki, DOGM
Price Field Office

O:\015032.CRA\WG4295\PROPOSED ASSESSMENT NOV 10105.DOC

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City, State	East Carbon, UT 84520-0910
PS Form 3800, June 2002	
See Reverse for Instructions	

**WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING**

COMPANY / MINE Crandall Canyon Mine

PERMIT C/015/0032 NOV / CO # N 10105

VIOLATION 1 of 1

ASSESSMENT DATE April 3, 2013

ASSESSMENT OFFICER Joe Helfrich

I. HISTORY (Max. 25 pts.)

- A. Are there previous violations, which are not pending or vacated, which fall one (1) year of today=s date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>10099</u>	<u>03/02/2013</u>	<u>1</u>
<u>10100</u>	<u>03/02/2013</u>	<u>1</u>

1 point for each past violation, up to one (1) year
5 points for each past violation in a CO, up to one (1) year
No pending notices shall be counted

TOTAL HISTORY POINTS 2

II. SERIOUSNESS (Either A or B)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector=s and operator=s statements as guiding documents.

Is this an EVENT (A) or HINDRANCE (B) violation? Event

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?

Water Pollution in excess of state and federal water quality limitations.

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS:

******The permittee has a strict liability to maintain the storage capacity for sediment and a design storm, (10yr/24hr event), in the primary sediment pond. According to the information in the inspector statement that capacity was exceeded. "During a routine inspection on May 15th, 2012 (Inspection Report #3104), the Permittee was made known that the two sediment markers installed in the pond were no longer visible (i.e. buried under sediment). Based upon communications with former Genwal employee, Mr. David Shaver (circa early summer 2010), the sediment markers indicated the clean-out level of the sediment pond. The Permittee was directed to initiate clean-out following the May 15th, 2012 inspection. A NOV was not issued at that time as the sediment markers are not explicitly identified/discussed within the approved MRP. However, at this point in time, the MRP provides a more clear indication that the designed sediment capacity has been exceeded. On page 36 of Appendix 7-4, Item 3.4 a, the MRP states, "The sedimentation pond has been designed to contain the disturbed area (and contributing undisturbed area) runoff from a 10-year, 24-hour precipitation event, along with 3 years of sediment storage capacity." According to page 7 of Appendix 7-65 of the MRP as well as the 2010 Annual Pond Certification Report (P.E. Stamped by David W. Hibbs on 12/8/2010), the pond was last cleaned in December of 2009. Based on these design considerations in the MRP as well as from documentation provided by the Permittee, the sediment holding capacity has been exceeded. Additionally, the three year sediment yield holding capacity did not take into account the deposition of iron-sludge material from the mine sites treatment basin. The iron-sludge material had been deposited in the sediment pond from approximately May of 2011 (when Genwal Resources was no longer allowed to deposit the material at the Wildcat Loadout) to late 2012. Further evidence that the sediment pond had exceeded its capacity was provided during the March 14th inspection (Inspection Report #3425) when the 10-year, 24-hour marker was no longer visible".***

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

***** According to the information in the inspector statement, no damage occurred as a result of the violation**

B. HINDRANCE VIOLATION (Max 25 pts.)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? Actual
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 15

III. NEGLIGENCE (Max 30 pts.)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS:

***** According to the information in the inspector statement, "During a routine inspection on May 15th, 2012 (Inspection Report #3104), the Permittee was made known that the two sediment markers installed in the pond were no longer visible (i.e. buried under sediment). Based upon information provided by former Genwal employee, Mr. David Shaver (circa early summer 2010), the sediment markers indicated the clean-out level of the sediment pond. The Permittee was directed to initiate clean-out following the May 15th, 2012 inspection. A NOV was not issued at that time as the sediment markers are not explicitly identified/discussed within the approved MRP. However, at this point in time, the MRP provides a more clear indication that the designed sediment capacity has been exceeded. On page 36 of Appendix 7-4, Item 3.4 a, the MRP states, "The sedimentation pond has been designed to contain the disturbed area (and contributing undisturbed area) runoff from a 10-year, 24-hour**

precipitation event, along with 3 years of sediment storage capacity.” According to page 7 of Appendix 7-65 of the MRP as well as the 2010 Annual Pond Certification Report (P.E. Stamped by David W. Hibbs on 12/8/2010), the pond was last cleaned in December of 2009. Based on these design considerations in the MRP as well as from documentation provided by the Permittee, the sediment holding capacity has been exceeded. Additionally, the three year sediment yield holding capacity did not take into account the deposition of iron-sludge material from the mine sites treatment basin. The iron-sludge material had been deposited in the sediment pond from approximately May of 2011 (when Genwal Resources was no longer allowed to deposit the material at the Wildcat Loadout) to late 2012. Further evidence that the sediment pond had exceeded its capacity was provided during the March 14th inspection (Inspection Report #3425) when the 10-year, 24-hour marker was no longer visible”.

IV. GOOD FAITH (Max 20 pts.)

(Either A or B)

(Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	
	(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

X	Rapid Compliance	-11 to -20*
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	-1 to -10*
	(Operator complied within the abatement period required)	
X	Extended Compliance	0

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? Difficult, plans were required

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

******Good faith will be evaluated upon termination of the violation***

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # **N 10105**

I.	TOTAL HISTORY POINTS	<u>2</u>
II.	TOTAL SERIOUSNESS POINTS	<u>15</u>
III.	TOTAL NEGLIGENCE POINTS	<u>12</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>29</u>

TOTAL ASSESSED FINE **\$ 990**